

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

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WRIT PETITION NO.25123 of 2006

5th June 2007

Between:

Bishamber Nayal Nemani, S/o.Late Beniprasad Nemani, 60 years,
Business, R/o.21-2-5, Pattargatti, Hyderabad.

...PETITIONER

AND

1. The Special Court under A.P. Land Grabbing (Prohibition) Act, IInd Floor, B.R.K.R. Govt. Offices Complex, Tank Bund Road, Hyderabad, Rep. By its Registrar.

And two others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

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WRIT PETITION NO.25123 of 2006

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ORDER: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri A.Sudershan Reddy, learned counsel appearing on behalf of the petitioner and Sri Vilas Afzal V.Purkar, learned Senior Counsel appearing on behalf of the contesting respondents.

The petitioner is the respondent against whom; respondent Nos.2 and 3 have filed L.G.C.No.38 of 2003 under Section 8 (1) of the A.P. Land Grabbing (Prohibition) Act, 1982 to declare him as land grabber and for consequential eviction and the petitioner contested the same, *inter alia*, on various grounds. During the course of enquiry, respondent Nos.2

and 3 filed an application in I.A.No.59 of 2003 seeking appointment of a Commissioner to survey the land in Survey No.11/5 of Hydershakot (Village), Rajendranagar Mandal, Ranga Reddy District. The said application, after contest, was allowed. Hence, the Writ Petition.

Sri A.Sudershan Reddy, learned counsel for the petitioner

submits that having regard to the fact that there being no dispute to the very identity as such since both the sides are claiming their respective areas on two different sites, there is no need to appoint Commissioner. More so, in the deposition given by the petitioner during the course of enquiry he stated that the location of their own land is different from the land claimed. Therefore, there being no such identity dispute arising, no Commissioner need be appointed. This submission is repelled by the other side.

Having heard on either side and on perusal of the material available on record, primarily we are of the view that the application as filed and allowed is a part of regular trial, which is a procedural one, which goes normally deciding the dispute between the parties. We have gone through the pleadings and counter affidavit in the L.G.C. In his own counter affidavit, the petitioner made various allegations on various aspects including identity, location etc. In fact, in view of the said allegations, there is a warrant to appoint the Commissioner. Further, having regard to the impugned order, which is purely discretionary and procedural one, we are of the view that this Court would not venture to interfere in exercise of its jurisdiction under Article 226 of the Constitution of India. It shall, however, open for the

petitioner to file work memos during the course of inspection and objections, if any, against them and all these aspects will be considered at the final disposal of the L.G.C.

Subject to the above, the Writ Petition is dismissed. No costs.

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(B.PRAKASH RAO, J)

(G.BHAVANI PRASAD, J)

5th June 2007
RRB

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